

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PHOENIX HERPETOLOGICAL  
SOCIETY, INC.

*Plaintiff,*

vs.

UNITED STATES DEPARTMENT OF  
THE INTERIOR, U.S. FISH AND  
WILDLIFE SERVICE, DAVID  
BERNHARDT, in his official capacity as  
the Secretary of the U.S. Department of the  
Interior, and MARGARET EVERSON, in  
her official capacity as the Principal Deputy  
Director Exercising the Authority of the  
Director of U.S. Fish and Wildlife Service,

*Defendants.*

Civil Action No.

**COMPLAINT FOR DECLARATORY JUDGMENT  
PURSUANT TO 28 U.S.C. §§ 2201 & 2202**

Plaintiff, Phoenix Herpetological Society, Inc., by and through its counsel, Law Offices of Frederick Coles, III, pursuant to Title 28, United States Code, Sections 2201 and 2202, and Federal Rule of Civil Procedure 57, complains against defendants, United States Department of the Interior, U.S. Fish and Wildlife Services, and Margaret Everson, in her official capacity as the Principal Deputy Director Exercising the Authority of the Director, for the entry of a declaratory judgment declaring that: (A) U.S. Fish and Wildlife Service (“Service”) violated the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*, when it retroactively applied the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) which became effective on July 1, 1975, to the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971 which is well prior

to CITES' effective date of July 1, 1975 and (B) U.S. Fish and Wildlife Service ("Service") violated the Endangered Species Act ("ESA"), 16 U.S.C. § 1531, *et seq.* when it retroactively applied the ESA which became effective on December 27, 1973, to the Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971 which is well prior to ESA's effective date of December 27, 1973.

## INTRODUCTION

1. This complaint seeking declaratory judgment arises out of defendants, United States Department of the Interior, U.S. Fish and Wildlife Services, and Margaret Everson, in her official capacity as the Principal Deputy Director Exercising the Authority of the Director, violating both the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*, and the Endangered Species Act, 16 U.S.C. § 1531, *et seq.*, in connection with the processing of applications for registration in connection with defendants' management and operation of the Captive-Bred Wildlife Registration ("CBW") program pertaining to the export of GCBI, Blue Cayman Iguana, *Cyclura Lewisi* and/or *Lewisi* (all synonymous to one another), all of which were derived from the Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971.

2. More specifically, this complaint for declaratory judgment seeks the entry of a judgment declaring that Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971, which well predates the enactment and enforceability of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") which became effective on July 1, 1975, does not apply to the subject Ramon Noegel "Founder Stock of Iguanas".

3. In short, the Ramon Noegel "Founder Stock of Iguanas" entered the United States prior to the enactment of CITES, and, as such, those animals are not subject to the

requirements of CITES or the Endangered Species Act which became effective on December 23, 1973, which is similarly subsequent to the Ramon Noegel “Founder Stock of Iguanas” entering the United States.

4. Inasmuch as the subject animals were brought into the United States prior to the enactment of both the Endangered Species Act and CITES, defendant lack the authority and authorization to retroactively apply either of these regulatory provisions in connection with the Ramon Noegel “Founder Stock of Iguanas” in that neither law has a retroactive enforcement provision.

5. Both laws are only prospective in nature and character, and, as such, cannot, as a matter of law, pertain to animals that entered the United States prior to their respective enactive and effective enforcement dates.

#### **JURISDICTION, VENUE AND NOTICE**

6. This is a citizen suit under both the Endangered Species Act and Administrative Procedure Act, joint and/or severally. Thus, this Court has subject matter jurisdiction over the claims set forth in this complaint pursuant to the citizen suit provision of the Administrative Procedure Act, 5 U.S.C. § 702 and the citizen suit provision of the Endangered Species Act, 16 U.S.C. § 1540(g)(1)(A) and (g)(2)(A)(i), and has the authority to award attorneys fees pursuant to 5 U.S.C. § 704 of the Administrative Procedure Act and 16 U.S.C. § 1540(g)(4) of the Endangered Species Act. Both the Administrative Procedure Act and the Endangered Species Act are federal statutes and the Acting Director of the governmental agency, defendant, Margaret Everson, is an agent of the United States government. Thus, this Court has subject matter jurisdiction over the claims set forth in this complaint pursuant to 28 U.S.C. § 1331 (federal question) and 1346 (United States as defendant). This case not concern federal taxes, is

not a proceeding under 11 U.S.C. § 505 or 1146, nor does it involve the Tariff Act of 1930. Thus, this Court has authority to order the declaratory relief requested under 28 U.S.C. § 2201. If the Court orders such relief, 28 U.S.C. § 2202 authorizes this Court to issue injunctive relief and 28 U.S.C. § 2412 authorizes this Court to award plaintiff its costs and attorneys fees.

7. A substantial part of the alleged events or omissions giving rise to plaintiff's claims occurred in the District of Columbia. In addition, this suit is being brought against the Acting Director in her official capacity as an officer or employee of the United States Department of the Interior, U.S. Fish and Wildlife Service, residing in the District of Columbia. Thus, venue is proper in this Court, pursuant to 28 U.S.C. § 1391(e).

8. As required by 42 U.S.C. § 7604(b)(1)(A), plaintiff has previously notified the defendant of the violations asserted and complained of in this complaint as evidenced by the pending litigation which is styled as *Phoenix Herpetological Society, Inc., v. U.S. Fish and Wildlife Services, et al.*, Civil Action No. 1:17-cv-02584-APM whereby plaintiff is challenging defendant's denial of the renewal and amendment to its CBW permit. Additionally, the related action is premised upon defendant's improper finding which constitutes a violation of the Administrative Procedure Act, Endangered Species Act and CITES by ruling that the Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971 were not legally within the United States pursuant to CITES and the Endangered Species Act. Such a ruling and finding by defendant forms the very basis of the case and controversy presented by this action in that the animals never fell within the purview of CITES or the Endangered Species Act in that they were brought into this country prior to the effective date of either law. Defendant, Acting Director Margaret Everson, has not acted to remedy the violations alleged in this complaint, and, as such, an existing and actual case and controversy exists. The

aforementioned related action (*i.e.*, *Phoenix Herpetological Society, Inc., v. U.S. Fish and Wildlife Services, et al.*, Civil Action No. 1:17-cv-02584-APM) was filed with this Court on December 4, 2017 [17-cv-02584 Docket Entry No. 1], with defendant (the same governmental agency as named herein) filed its Answer to said Complaint on April 23, 2018 [17-cv-02584 Docket Entry No. 6]. Based upon the foregoing, plaintiff is in compliance with the notice provision set forth in 42 U.S.C. § 7604(b)(1)(A).

### **PARTIES**

9. Plaintiff, Phoenix Herpetological Society, Inc., is an Arizona corporation, that is a Permittee who holds a Captive-Bred Wildlife Registration Permit issued to it by defendants. Plaintiff is dedicated to the propagation and conservation of endangered and rare, and in some cases; nearly extinct reptiles. Plaintiff is and continued to be an aggrieved and injured party as a direct and proximate result of defendants' violations of the Administrative Procedure Act, Endangered Species Act and CITES by requiring that the Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971, be regulated in compliance with the Endangered Species Act and CITES.

10. Defendant, United States Department of Interior, is a department of the United States government.

11. Defendant, U.S. Fish and Wildlife Service, is one of nine independent agencies that operate under the United States Department of Interior.

12. Defendant, David Bernhardt, is presently the Secretary of the Interior and in said capacity is responsible for rulings issued by any agency under the Department of Interior.

13. Defendant, Margaret Everson, is the Principal Deputy Director Exercising the Authority of the Director of U.S. Fish and Wildlife Service. Defendant, Margaret Everson has direct managerial oversight over the employees of U.S. Fish and Wildlife Service.

#### **LEGAL AUTHORITY**

14. Defendants' reliance upon the Endangered Species Act and CITES, in connection with it duties and responsibilities under the Administrative Procedure Act, were contrary to and not supported by any legal authority when ruling that the Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971, did so in violation of both the Endangered Species Act and CITES. Again, as stated above, defendants' acts and omission in this regard are not in compliance and/or accordance with any legal authority to consider or subject the Ramon Noegel "Founder Stock of Iguanas" that entered the United States, in or about 1971, to the requirements of the Endangered Species Act or CITES.

#### **FACTS COMMON TO ALL COUNTS**

15. Plaintiff, a non-profit, that maintains as one of its charges to perpetuate the promulgation of GCBI, Blue Cayman Iguana, Cyclura Lewisi and/or Lewisi (all synonymous to one another), by exporting same to other entities and/or institutions that are similarly engaged in perpetuating the promulgation of this species of animal.

16. Plaintiff, in order to carry out this charge and function must apply to defendants for permission to export the subject animals and/or in other instances to amend its CBW permit/registration so as to allow for the export/import of the subject animals.

17. Plaintiff has and is now encountering an illegal impediment to its ability to effectively carry out and perform the aforementioned charge in that defendants have invoked a policy, course of conduct and pattern of finding that the Ramon Noegel "Founder Stock of

Iguanas” that entered the United States, in or about 1971, the same lineage of animals relied upon by plaintiff to perform the referenced charge entered this country in violation of the then yet to be effective Endangered Species Act and CITES. *See* Exhibit A (David Blair Affidavit dated March 2, 2006).

18. Such a retroactive application of the Endangered Species Act and CITES is not authorized under the law. Again, the subject animals entered the United States in 1971 and CITES became effective July 1, 1975 and the Endangered Species Act became effective December 27, 1973.

19. As a result of defendants engaging in this prohibitive course of conduct, plaintiff has been and continues to be damaged as a direct and proximate result of defendants’ illegal conduct and acts in direct contravention of law.

#### **COUNT ONE**

##### **(Defendants Retroactive Application of CITES to the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971, Violated CITES and the APA)**

20. Plaintiff realleges and incorporates herein by reference all the foregoing allegations of this Amended Complaint, as though fully set forth below.

21. Defendants by subjecting and/or evaluating the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971, in connection with the requirements of CITES which became effective July 1, 1975 constitutes a direct violation of law that damaged and continues to damage plaintiff.

#### **COUNT TWO**

##### **(Defendants Retroactive Application of Endangered Species Act to the Ramon Noegel “Founder Stock of Iguanas” that entered the United States,**

**in or about 1971, Violated the Endangered Species Act and the APA)**

22. Plaintiff realleges and incorporates herein by reference all the foregoing allegations of this Amended Complaint, as though fully set forth below.

23. Defendants by subjecting and/or evaluating the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971, in connection with the requirements of the Endangered Species Act which became effective December 27, 1973 constitutes a direct violation of law that damaged and continues to damage plaintiff.

**PRAYER FOR RELIEF**

WHEREFORE, based upon the allegations set forth above, plaintiff, Phoenix Herpetological Society, Inc., respectfully requests that this Court:

A. Declare that CITES which became effective and enforceable on July 1, 1975 is not applicable to the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971, based upon CITES having no retroactive application in that it became effective and enforceable on July 1, 1975 which was subsequent to the subject animals entering the United States.

B. Declare that the Endangered Species Act which became effective and enforceable on December 27, 1973 is not applicable to the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971, based upon CITES having no retroactive application in that it became effective and enforceable on July 1, 1975 which was subsequent to the subject animals entering the United States.

C. Declare that defendants’ reliance and application of CITES and the Endangered Species Act in connection with CBW permit registration applications concerning the



lineage of the Ramon Noegel “Founder Stock of Iguanas” that entered the United States, in or about 1971, is not supported by law.

- D. Retain jurisdiction over this action to ensure compliance with the Court’s Order;
- E. Award plaintiff its attorneys fees, costs and fees related to this action; and
- F. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

LAW OFFICES OF FREDERICK COLES, III

/s/ Frederick Coles, III

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Frederick Coles, III  
LAW OFFICES OF FREDERICK COLES, III  
4802 South 1110 East  
Salt Lake City, Utah 84117  
Tel. No. (908) 757-4977  
E-Mail: fcoles@coleslegal.com  
Attorneys for Plaintiff, Phoenix Herpetological  
Society, Inc.

Dated: November 15, 2019

## CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<b>I. (a) PLAINTIFFS</b>  Phoenix Herpetological Society, Inc.  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)  (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  Law Offices of Frederick Coles, III 4802 South 1110 East Salt Lake City, Utah 84070 Tel. 908.757.4977	<b>DEFENDANTS</b> United States Department of the Interior, U.S. Fish and Wildlife Service, David Bernhardt, in his official capacity as the Secretary of the U.S. Department of the Interior, and Margaret Everson, in her official capacity as the Principal  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>  ATTORNEYS (IF KNOWN)																								
<b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)  <input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b> <table style="width: 100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/ Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input checked="" type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input checked="" type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
<input type="radio"/> <b>E. General Civil (Other)</b> OR <input type="radio"/> <b>F. Pro Se General Civil</b>			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)



<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 22 U.S.C. §§ 2201 & 2202 Action for Declaratory Judgment

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: 11-15-2019	SIGNATURE OF ATTORNEY OF RECORD: /s/ Frederick Coles, III
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIANOTICE OF DESIGNATION OF RELATED CIVIL CASES PENDING  
IN THIS OR ANY OTHER UNITED STATES COURTCivil Action No. \_\_\_\_\_  
(To be supplied by the Clerk)NOTICE TO PARTIES:

Pursuant to Rule 40.5(b)(2), you are required to prepare and submit this form at the time of filing any civil action which is related to any pending cases or which involves the same parties and relates to the same subject matter of any dismissed related cases. This form must be prepared in sufficient quantity to provide one copy for the Clerk's records, one copy for the Judge to whom the cases is assigned and one copy for each defendant, so that you must prepare 3 copies for a one defendant case, 4 copies for a two defendant case, etc.

NOTICE TO DEFENDANT:

Rule 40.5(b)(2) of this Court requires that you serve upon the plaintiff and file with your first responsive pleading or motion any objection you have to the related case designation.

NOTICE TO ALL COUNSEL

Rule 40.5(b)(3) of this Court requires that as soon as an attorney for a party becomes aware of the existence of a related case or cases, such attorney shall immediately notify, in writing, the Judges on whose calendars the cases appear and shall serve such notice on counsel for all other parties.

The plaintiff, defendant or counsel must complete the following:

1. RELATIONSHIP OF NEW CASE TO PENDING RELATED CASE(S).

A new case is deemed related to a case pending in this or another U.S. Court if the new case: [Check appropriate box(es) below.]

- ☐ (a) relates to common property
- ☒ (b) involves common issues of fact
- ☒ (c) grows out of the same event or transaction
- ☐ (d) involves the validity or infringement of the same patent
- ☐ (e) is filed by the same pro se litigant

2. RELATIONSHIP OF NEW CASE TO DISMISSED RELATED CASE(ES)

A new case is deemed related to a case dismissed, with or without prejudice, in this or any other U.S. Court, if the new case involves the same parties and same subject matter.

Check box if new case is related to a dismissed case: ☐

## 3. NAME THE UNITED STATES COURT IN WHICH THE RELATED CASE IS FILED (IF OTHER THAN THIS COURT):

## 4. CAPTION AND CASE NUMBER OF RELATED CASE(ES). IF MORE ROOM IS NEED PLEASE USE OTHER SIDE.

Phoenix Herpetological Society, Inc.

v. U.S. Fish and Wildlife Service, et al.

C.A. No. 17-cv-2584

11/15/2019

DATE

Signature of Plaintiff /Defendant (or counsel)



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

PHOENIX HERPETOLOGICAL SOCIETY, INC.

*Plaintiff*

v.

U.S. DEPARTMENT OF THE INTERIOR, ET AL.

*Defendant*

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

WILLIAM BARR, ATTORNEY GENERAL OF THE UNITED STATES  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frederick Coles, III, Esquire  
Law Offices of Frederick Coles, III  
4802 South 1110 East  
Salt Lake City, Utah 84117

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: 11-15-2019

*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: \_\_\_\_\_

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

PHOENIX HERPETOLOGICAL SOCIETY, INC.

*Plaintiff*

v.

U.S. DEPARTMENT OF THE INTERIOR, ET AL.

*Defendant*

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

HONORABLE JESSIE K. LIU  
United States Attorney for the District of Columbia  
United States Attorney's Office  
555 Fourth Street, N.W.  
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frederick Coles, III, Esquire  
Law Offices of Frederick Coles, III  
4802 South 1110 East  
Salt Lake City, Utah 84117

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: 11-15-2019

*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

PHOENIX HERPETOLOGICAL SOCIETY, INC.

*Plaintiff*

v.

U.S. DEPARTMENT OF THE INTERIOR, ET AL.

*Defendant*

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

DAVID BERNHARDT, SECRETARY U.S. DEPARTMENT OF THE INTERIOR  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frederick Coles, III, Esquire  
Law Offices of Frederick Coles, III  
4802 South 1110 East  
Salt Lake City, Utah 84117

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: 11-15-2019

*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

PHOENIX HERPETOLOGICAL SOCIETY, INC.

*Plaintiff*

v.

U.S. DEPARTMENT OF THE INTERIOR, ET AL.

*Defendant*

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

MARGARET EVERSON, PRINCIPAL DEPUTY DIRECTOR  
United States Fish and Wildlife Service  
1849 C Street, N.W.  
Washington, D.C. 20240-0001

A lawsuit has been filed against you.

Within 60 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frederick Coles, III, Esquire  
Law Offices of Frederick Coles, III  
4802 South 1110 East  
Salt Lake City, Utah 84117

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: 11-15-2019

*Signature of Clerk or Deputy Clerk*